

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE M. LORIE VELASCO, et al

Plaintiffs

v

KMART CORPORATION, et al

Defendants

CIVIL NO.: 1998-1867 (PG)

**MOTION IN COMPLIANCE WITH ORDER
REGARDING OUTCOME OF AUGUST 31, 2004
BANKRUPTCY HEARING**

TO THE HONORABLE COURT:

COMES NOW Defendant Kmart Corporation ("Kmart"), represented by the undersigned attorneys, and respectfully informs as follows:

1. In compliance with this Court's order of September 28, 2004 (Docket No. 218), it is hereby reported that the hearing to argue plaintiff's motion to reconsider before the Bankruptcy Court has been adjourned until October 19, 2004 by agreement of the parties. Nevertheless, during the hearing Kmart intends to agree to a modification of the automatic stay and the plan injunction in the instant case and to consider that plaintiff Jose M. Lorie Velasco made a timely response to the *Reorganized Debtors' Twenty First Omnibus Objection to Claims*. As such, Kmart has proposed to enter into Agreed Order to be submitted to the Bankruptcy Court on October 19, 2004.

2. Kmart's proposed Agreed Order provides for the automatic stay and the plan injunction to be partially lifted to permit this litigation to proceed and continue to a final judgment or settlement. Notwithstanding the above, the automatic stay and the plan

injunction shall remain in effect with respect to any and all actions by Jose M. Lorie Velasco to execute any final judgment or settlement against Kmart, Kmart's estates, the reorganized debtors or any or their property. Nothing in the proposed Agreed Order shall be deemed to be an admission of fact on the part of Kmart with respect to the Claim or any of the facts alleged in plaintiff's motion to reconsider before the Bankruptcy Court nor shall anything in the proposed Agreed Order be construed as a waiver of any of Kmart's defenses or arguments in the case at bar. The Bankruptcy Court retains jurisdiction to hear any matters or disputes arising from or relating to the proposed Agreed Order.

WHEREFORE, it is respectfully requested from this Honorable Court it takes notice of the above, and consequently deems its September 28, 2004 order complied with by Kmart Corporation.

RESPECTFULLY SUBMITTED.

IT IS HEREBY CERTIFIED that on October 13, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **José Quetglas Jordán, Esq.**, Quetglas Law Office, P.O. Box 16606, San Juan, Puerto Rico, 00907-6606.

In San Juan, Puerto Rico, this 13th day of October 2004.

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